



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 01634-00

26 May 2000

SSGT [REDACTED] USMC

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 29 February 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board noted, but did not find persuasive, the supporting statement of 16 November 1999 from a corporal who worked with you from August 1997 to September 1998. As in the case of your first sergeant who gave a statement on your behalf, the Board observed that the corporal would not be expected to have been aware of all counseling you might have received. They were unable to find your reporting senior lacked sufficient opportunity to observe you, noting observation need not be direct. They were likewise unable to find his use of alcohol impaired his ability to observe or evaluate your performance. In this regard, they particularly noted he was not relieved of his duties as your reporting senior.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



1634-00

DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1610  
MMER/PERB  
29 FEB 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
SERGEANT [REDACTED] SMC

Ref: (a) SSgt. [REDACTED] D Form 149 of 22 Dec 99  
(b) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 23 February 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 970416 to 971231 (AN)
- b. Report B - 980101 to 980306 (TR)

2. The petitioner contends that Report A, and by it's extension, Report B, are unjust due to the questionable ability of the Reporting Senior to render a fair evaluation. The petitioner furnishes her own detailed statement of the events/circumstances surrounding issuance of the fitness reports and states that it was not until she received the fitness reports by [REDACTED] did she know that he would be her Reporting Senior. Until that time, the petitioner was under the impression that her first-line supervisor ([REDACTED] GS-9) would function in that capacity. To further support her claim of an unjust evaluation, the petitioner describes her observation of the Reporting Senior's behavior and work habits. In addition to her own letter, the petitioner furnishes an advocacy statement from Sergeant Major [REDACTED] who at the time was the petitioner's Company First Sergeant.

3. In its proceedings, the PERB concluded that both reports are administratively correct as written and filed. The following is offered as relevant:

- a. At the outset, the Board points out that as a civilian in the grade of GS-9, [REDACTED] could not have functioned as the petitioner's Reporting Senior. The first sentence in subparagraph 2003.1 of reference (b) defines the Reporting Senior, and is quoted verbatim: "The RS is the first officer (or civilian equivalent, GS-11 or above) in the reporting chain

(3) PERB

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
 ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF  
 SERGEANT [REDACTED] MC

senior to the MRO." That [REDACTED] assumed responsibility as the petitioner's Reporting Senior was in full compliance with reference (b).

b. With all due respect to Sergeant [REDACTED] the Board finds his opinions and observations to be without merit. He was not in the petitioner's work section or in a capacity to directly observe day-to-day performance and interaction. As a result, there is no way he can conclude that the reports at issue are either "inaccurate" or "unfair" evaluations. Likewise, since he was not privy to any dialogue or performance feedback between the petitioner and her Reporting Senior, it is presumptuous to conclude there was no "counseling" during the reporting periods or that the Reporting Senior did not evaluate/monitor performance on a daily basis. As a final matter, Report A neither implies nor infers that the petitioner had any shortfalls or deficiencies.

c. While reference (a) is replete with allegations against the Reporting Senior, it is short on any documentation to show precisely how the petitioner may have rated more than what has been recorded. To this end, the Board concludes that the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Chairperson, Performance  
 Evaluation Review Board  
 Personnel Management Division  
 Manpower and Reserve Affairs  
 Department  
 By direction of the Commandant  
 of the Marine Corps